

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
MAY 5, 2005**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF  
ZONING APPEALS WAS HELD MAY 5, 2005 AT 10:00 A.M. IN WARRENTON,  
VIRGINIA**

Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mr. Maximilian A. Tufts, Jr.; Mrs. Carolyn Bowen; Mr. Roger R. Martella, Jr.; and Mr. Serf Guerra. Also present was Mr. Fred Hodge, Senior Planner.

Mr. Hodge reviewed the site visit agenda. He stated that three (3) site visits would be held as follows:

1. Stillhouse Vineyards at 10:30a.m.
2. Furr Pet Grooming at 11:00a.m.
3. Turner Gunsmithing between 11:15a.m. and 11:30a.m.

With no further business, the meeting was adjourned at 11:45a.m., to reconvene at 2:00p.m. at 10 Hotel Street, Warren Green Meeting Room, Warrenton, Virginia.

**MEETING:**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, May 5, 2005, beginning at 2:00 P.M. at the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mr. Maximilian A. Tufts, Jr.; Mrs. Carolyn Bowen; Mr. Roger R. Martella, Jr.; and Mr. Serf Guerra. Also present were Ms. Tracy Gallehr, Acting Deputy County Attorney; Mr. Rick Carr, Director of Community Development; Mr. Fred Hodge, Senior Planner; and Mrs. Debbie Dotson, Office Associate III.

**MINUTES:** On a motion made by Mr. Van Luven and seconded by Mr. Tufts, the BZA moved to approve the April 6, 2005, minutes.

The motion carried unanimously.

**LETTERS OF NOTIFICATION AND PUBLIC NOTICE:** Mrs. Dotson read the Public Hearing protocol. Mr. Hodge stated, that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners.

**SPECIAL PERMIT #SPPT05-MA-004, JOHN A. MCINTIRE (OWNER) /  
WILLIAM MCINTIRE AND JOHN R. MCINTIRE, STILLHOUSE VINEYARDS  
(APPLICANTS)**

Applicants are seeking special permit approval for winery with minor events on the property, PIN #6929-75-3501-000, located at 4366 Stillhouse Road, Marshall District, Hume, Virginia. **Public Hearing closed on January 6, 2005.**

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes. He reminded the BZA that the public hearing was closed on January 6, 2005.

John McIntire, applicant, appeared representing the application and noted agreement with the staff report.

On a motion made by Mrs. Bowen and seconded by Mr. Tufts, the BZA moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits
7. The Board of Zoning Appeals finds the type and quantity of traffic generated by the use will not adversely affect the safety of the road usage on Route 688 (Leeds Manor Road) or adversely affect the neighborhood.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The use shall be generally consistent with the information submitted with the special permit application as amended.
2. Events shall be limited to live music, winemaker's lunches or dinners, food pairings, barrel tastings, art shows, and educational seminars.
3. No more than 149 guests are permitted at any event, and no more than 75 guests are permitted during any single day of any event.
4. No more than 15 events may be held in a single calendar year; hours of events shall be limited to between 9:00 a.m. and 9:00 p.m.
5. No amplified music shall be allowed outdoors.
6. The special permit is issued for a period of three (3) years.
7. At least 30 days prior to each event, the applicants shall provide the Zoning Administrator:
  - A. Proof of coordination with the following agencies:
    1. Fauquier County Sheriff's Office
    2. Virginia Department of Transportation
    3. Fauquier County Emergency Services Coordinator
    4. Fauquier County Health Department; and
  - B. The name, address and a contact person for each individual, group, association, partnership or corporation which is expected to conduct retail sales at the event.
8. The entrance for the winery shall be relocated to Route 688 (Leeds Manor Road) at the site approved by the Virginia Department of Transportation and the right-of-way shall be kept clear for better visibility.
9. The service entrance on Stillhouse Road shall remain closed during events
10. Site plan approval shall be secured prior to any events being held.

On a motion made by Mr. Martella and seconded by Mrs. Mailler, the motion was amended to include:

11. No music on Sundays before 1:00pm.

The motion to amend the motion carried unanimously.

The amended motion carried unanimously.

**VARIANCE #ZNVA05-MA-002, HAZEL F. BLEVINS ESTATE (OWNER) / MAC HOLT (APPLICANT)**

Applicant is seeking to locate a single family dwelling 39.1 feet from the centerline of Frost Street wherein the Zoning Ordinance requires 50 feet. A variance of 10.9 feet is requested. The property is identified as PIN #6969-58-9172-000, #6969-58-9140-000, and #6969-58-9007-000, located on Frost Street and Anderson Avenue, Marshall District, Marshall, Virginia.

Mr. Hodge stated the applicant withdrew this application.

**SPECIAL PERMIT #SPPT05-CR-025, A. W. & WILLIAM C. PATTON (OWNERS) / LEE HOLLANDER (APPLICANT)**

Applicant is seeking special permit approval to locate a recreational shooting range on the property, PIN #7819-66-3353-000, located on Midland Road, Cedar Run District, Midland, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of the minutes. Mr. Rick Carr, Director of Community Development, reviewed a letter from the Airport Committee and a letter from the County Administrator asking for the BZA to defer their decision for thirty (30) days.

Mr. Martella asked if the Airport Committee had met with FAA administrators. Ms. Gallehr stated that a meeting had been held with the FAA and the Virginia Department of Aviation, but not all members of the Airport Committee could attend. Mr. Martella asked what concerns the FAA might have. Ms. Gallehr stated that the concerns expressed were with the skeet shooting area and the rifle range.

James Downey, attorney, appeared representing the application and noted agreement with the staff report.

Mr. Van Luven asked Mr. Downey about fully automatic weapons not being allowed. Mr. Downey stated that they could accept a condition to limit automatic weapons to the rifle ranges.

Paul Pinkerton, sound consultant, appeared to answer questions about noise. He reviewed the charts and graphs in the application on noise levels.

Mr. Meadows asked if there were any speakers for or against the application.

Brian Turner, local resident, spoke in favor of the application. He stated that he shoots skeet. He stated that skeet shot is very fine and the range is typically less than 50 yards to be effective.

Zara Tarell, resident in the Town of Warrenton, spoke in favor of the application. She stated that the County needs a place to go for gun safety training.

Richard Yates, Midland resident, spoke against the application. He stated concerns about stray bullets and the noise.

Mrs. Yates, Midland resident, spoke against the application. She stated concerns with a gun range close to her residence where her grandchildren play outside.

Mrs. Dotson presented a list of calls, which is attached to and made a part of the minutes, of people who could not attend meeting and a map showing their location in reference to the range.

Joan Thurlow, Midland resident, spoke against the application. She presented and explained a noise chart based on Quantico's activity, a copy of which is attached to and made a part of the minutes.

Philip Kuhn, resident at 4630 Midland Road, spoke against the application. He stated concerns with members of Range 82 using muzzle breaks which produces a much louder noise. He questioned the credentials of the noise consultant who spoke earlier.

Mr. Meadows asked Ms. Gallehr if it is possible to verify the credentials of the engineer. Ms. Gallehr stated that the BZA could ask the applicant about the credentials of the sound engineer.

Mr. Pinkerton, sound engineer for ECS, stated that ECS is an engineering firm located in several states with their headquarters based in Chantilly, Virginia. He stated he was not a professional engineer but a geophysicist. He stated that regardless of who hired ECS the results would have been the same.

Ben Nichols, Midland resident, spoke against the application. He stated that sounds in the area carry and that this would bring down property values. He also stated concerns with lead in the water.

Daniel Connolly, Green Road resident, spoke against the application. He stated concerns with land values decreasing and noise pollution. He also stated that he would like the BZA to consider having their meetings at 7:00pm because citizens aren't able attend due to work schedules.

Mr. Guerra stated that he had to leave but wanted to state for the record that he would like to have a vote on this application and asked the BZA members to give strong consideration to the letter from the County Administrator.

The BZA recessed for 5 minutes.

The BZA reconvened.

Theresa Nichols, resident at 3150 Midland Road, spoke against the application. She stated concerns with noise and stated she had a petition with over 250 signatures against the application but did not present it to the BZA.

Ken Brown, area resident, spoke in favor of the application. He stated he would like to have a place to take his children to learn gun safety. He stated he was at the site when sound testing was being done and he didn't hear anything at the property line.

Ed Dickerson, Midland resident, spoke against the application. He stated that this would be an intrusion into the farming community.

Fred Pickrell, Midland Road resident, spoke against the application. He stated that before purchasing his property, he spent time at the site to check out the noise levels from the airport and determined that he could live with it. He stated he is now being asked to live with the noise from the range and no one here has heard more than 1 or 2 guns being fired at the same time on this property.

Al Lucas, Midland Road resident, spoke against application. He stated that one item that was left off the sound study was wind and this is a concern. He also stated concerns about automatic fire at the range.

Joan Thurlow stated that she and Mr. Dickerson contacted five different realtors and the realtors stated that this would have a negative effect on property values surrounding the range.

Mr. Meadows asked if there were any other speakers for or against the application. In that there were no other speakers, the public hearing was closed.

Mr. Meadows asked Ms. Gallehr about the letter from the County Administrator in regards to some concerns of Mr. Hooper. Ms. Gallehr stated that Mr. Carr would be better able to answer. Mr. Carr stated that it was his understanding that the County was in the process of reviewing land acquisition for the airport. During that time, Mr. Hooper probably received some general comment from the FAA that had not been shared with the Airport Committee. Mr. Hooper wanted to have the opportunity to do that. Ms. Gallehr stated that the letter came from Mr. McCulla because Mr. Hooper was out of town at a conference.

On a motion made by Mr. Martella and seconded by Mr. Van Luven, the BZA moved to defer the application to the next meeting with the public hearing being closed.

The motion carried 6-0, with Mr. Guerra being absent.

Mr. Meadows respectfully asked that any and all information to be given to the applicant two weeks prior to the next meeting.

The applicant presented to the BZA an example of "no blue sky" shooting range for the record.

**SPECIAL PERMIT #SPPT05-SC-028, BRIAN B. AND MARTHA L. TURNER (OWNERS)**

Owners are seeking special permit approval to operate a gunsmithing business as a home occupation on the property, PIN #7915-17-0709-000, located at 6747 Lake Drive, Scott District, Warrenton, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Brian Turner, owner, appeared representing the application and noted agreement with the staff report. He stated he is a certified NRA instructor for home firearm safety, certified safety officer with the International Defensive Pistol Association, and safety is the most critical in dealing with firearms. He further stated that there would be no loaded firearms on the premise.

Mr. Meadows asked if there were any speakers for or against the application.

Larry Ayers, neighbor, spoke against the application. He referenced his letter addressed to the BZA, located in their books. He stated concerns for the safety of children in the area and stated it would be difficult to say that a loaded weapon would never be on the premise.

Vicki Boggess, area resident, spoke against the application. She stated concerns with traffic and background checks not being done on people purchasing guns.

Liz Holmes, area resident, spoke against the application. She submitted a petition signed by area residents against the application, a copy of which is attached to and made a part of the minutes. Her concerns were with traffic, level of crime, and this business invites strangers into the area where children play.

Michael Wargo, area resident, spoke against the application. He stated concerns with the business being located near an elementary school and a middle school.

Kathy Brown, area resident, spoke against the application. She stated concerns for the safety of the children in the area.

Holly Ayers, neighbor, spoke against the application. She stated that the Turners were wonderful neighbors but has concerns with the clients coming to and from the home.

Mr. Meadows asked if there were any other speakers for or against the application. In that there were no other speakers, the public hearing was closed.

Mr. Martella asked Ms. Gallehr if he was to determine that the proposed use would affect the surrounding properties under Section 5-006 1. and then under Section 6-302 14. states that gunsmithing is permitted with no inventory of more than 10 guns. Is it expressly permitted such that it's irrelevant whether or not I think it does affect the surrounding

properties? Ms. Gallehr directed the question to Mr. Carr. Mr. Carr suggested restricting the number of firearms that would be for sale. Ms. Gallehr clarified that the question was what is allowed by right and if this increases the intensity by granting the special permit. Mr. Hodge stated that no more than 10 guns would be permitted on the property at one time. Mrs. Bowen stated that the BZA has issued a number of these special permits. Mr. Hodge noted that the Zoning office has not received complaints on these uses once the special permit is issued and, when the applicant comes back to renew the permit, there have been no speakers against the renewal.

Mrs. Bowen asked Mr. Turner if he intends to advertise. Mr. Turner stated that he does not intend to advertise publicly. He stated that he would like to focus on the law enforcement community through letters and hand out business cards at meetings.

On a motion made by Mr. Van Luven and seconded by Mrs. Mailler, the BZA moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards of Section 6-302.14 which apply to Gunsmithing as a Home Occupation.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:  
(Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)
  - (a) No weapons associated with the business shall be fired on the subject property.
  - (b) The permit is granted for a period of five (5) years.
  - (c) Operation of the business will be consistent with the application.
  - (d) A copy of all permits such as from the Bureau of Alcohol, Tobacco and Firearms shall be filed with the Zoning Administrator.



- (e) Applicant will comply with all State and Federal regulations pertaining to a gunsmithing business.
- 6. No more than two customers at the home at any one time.
- 7. Inventory of no more than three (3) weapons for sale will be held at any given time.

The motion carried 6-0, with Mr. Guerra being absent.

**SPECIAL PERMIT #SPPT05-MA-030, RICHARD A. AND SUSAN H. FURR (OWNERS)**

Owners are seeking special permit approval to operate a pet grooming service on the property, PIN #6958-19-5041-000, located at 9504 Elihu Hill Road, Marshall District, Marshall, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Susan Furr, owner, appeared representing the application and noted agreement with the staff report. She asked about having a sign posted on the property. Mr. Hodge stated that a home occupation can have a two (2) sq. ft. sign by right.

Mrs. Mailler asked Ms. Furr about how the animals are dropped off and picked up. Ms. Furr stated that it really depends on the person but sometimes the owner stays or the owner drops the animal off and picks up later.

On a motion made by Mr. Tufts and seconded by Mrs. Bowen, the BZA moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.

5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the specific standards for home occupations with no retail sales contained in section 5-201 of the zoning ordinance, as well as the use limitations for home occupations contained in sections 6-302 and 6-304 of the zoning ordinance.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The hours of operation shall be limited to 9 A.M. to 5 P.M., Monday through Saturday.
2. No more than one non-resident shall be employed on the site.
3. No more than ten (10) animals shall be on site at any one time.
4. The permit is granted for a period of three (3) years.
5. No overnight stay of animals.
6. Septic tank shall be cleaned every six months, if necessary.

The motion carried 6-0, with Mr. Guerra being absent.

#### **BY-LAWS:**

Mr. Meadows asked if there were any questions or discussion on the by-laws. The BZA discussed Robert's Rules of Order versus Small Body Rules of Order and the effects of each.

On a motion made by Mr. Van Luven and seconded by Mrs. Mailler, the BZA adopted the By-Laws as amended February 25, 2005.

The motion carried 6-0, with Mr. Guerra being absent.

#### **RESOLUTION DELINEATING SITE VISITS:**

The BZA discussed the Resolution Delineating Procedures for Site Visits Conducted by the Fauquier County Board of Zoning Appeals, a copy of which is attached to and made a part of the minutes.

On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the BZA moved to adopt the Resolution Delineating Procedures for Site Visits Conducted by the Fauquier County Board of Zoning Appeals.

The motion carried 6-0, with Mr. Guerra being absent.

**OTHER BUSINESS:**

Mr. Meadows stated that he has recommended to the Planning Commission to go through the use chart in Article 3 of the Zoning Ordinance and verify that all Special Permits are localized and do not affect the County and, in reverse, that all Special Exceptions are County-wide and not localized.

Mrs. Bowen recommended that the Planning Commission also look at the standards in Article 5 in its entirety.

**ADJOURNMENT:** There being no further business before the BZA, the meeting was adjourned at 4:42 P.M.

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Mr. John Meadows, Chairperson

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James W. Van Luven, Secretary

Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one year.